IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1160 OF 2006

Kapiladeva Dasa ... Petitioner

V/s.

The Assistant Charity Commissioner.
& ors. ... Respondents

Mr. Shyam Diwan, Sr. Counsel & Lata Bachani i/b. I.R. Joshi & Co.

Mr. R.M. Sawant, Govt. Pleader for respondent No.1.

Mr. D.S. Sakhalkar for respondent No.3.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 26th April, 2006

P.C.

. Petitioner has approached this Court against the order dated 04-04-2006, whereby the Assistant Charity Commissioner has ex-parte stayed the ex-parte order dated 27-04-2005 on the ground that same was ex-parte.

2. On the last occasion we had directed the Counsel appearing for the petitioner to file documents to indicate that petitioner was acting as Trustees. Today a compilation is filed and the same has been taken on record. We do not propose to go into the

said documents in view of the order to be passed.

3. Once stay was granted, even ex-parte, in the event the party concerned moves for whatever reason, that the order be stayed, in the normal course, notice has to be given to the parties in whose favour the order was passed. There can be exception to this in those rare cases where if the order is not stayed, grave prejudice and injustice would result. In this case the order was in operation for nearly one year. In this situation, it was improper on the part of the respondent No. 4 to grant stay without notice to the petitioner and others who are likely to be affected.

4. Considering the above, the following order :-

(i) Order dated 04-04-2006 is set aside.

(ii) Parties are directed to appear before the respondent No. 1 on 4th May, 2006 at 11.00 a.m. Respondent No. 1, after hearing the parties, to pass appropriate orders at any rate not later than four weeks from the date of the first appearance.

5. With the above observations, the petition stands disposed of.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]